



MARK PESTRELLA, Director

COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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IN REPLY PLEASE
REFER TO FILE

July 12, 2022

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**DEVELOPMENT SERVICES CORE SERVICE AREA
APPROVE ACQUISITION FUNDING AND JOINT COMMUNITY FACILITIES AGREEMENT FOR
CALIFORNIA MUNICIPAL FINANCE AUTHORITY COMMUNITY FACILITIES DISTRICT
NO. 2021-17
(SUPERVISORIAL DISTRICT 5)
(3 VOTES)**

SUBJECT

Public Works is seeking Board approval to adopt a Resolution to approve the Acquisition Funding and Joint Community Facilities Agreement by and among the California Municipal Finance Authority Community Facilities District No. 2021-17, the Spring Canyon Recovery Acquisition LLC, and the County of Los Angeles to allow certain facilities and improvements that are financed by the Community Facilities District No. 2021-17 to be transferred to, owned, and operated by the County of Los Angeles. Certain facilities may subsequently be transferred to the Los Angeles County Flood Control District.

IT IS RECOMMENDED THAT THE BOARD:

1. Determine that the recommended action is within the scope of the Environmental Impact Report (EIR), certified by your Board on August 3, 2004, and the addendum to the Final EIR approved by your Board on June 25, 2019.
2. Adopt the Resolution approving the Acquisition Funding and Joint Community Facilities District Agreement among the County of Los Angeles, the California Municipal Finance Authority Community Facilities District No. 2021-17, and the Spring Canyon Recovery Acquisition LLC.

3. Authorize and direct the Chair of the Board to execute the Acquisition Funding and Joint Community Facilities Agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended actions is to approve and execute an Acquisition Funding and Joint Community Facilities Agreement (JCFA) related to public facilities for the Spring Canyon residential project and to approve a resolution finding that the JCFA is beneficial to the residents of the County. This will allow the Community Facilities District (CFD) No. 2021 17, formed by the California Municipal Finance Authority, to provide financing for the facilities that are proposed to ultimately be transferred to, owned, and operated by the County of Los Angeles. The County may transfer certain flood control facilities to the Los Angeles County Flood Control District (LACFCD).

Implementation of Strategic Plan Goals

These recommendations support the Countywide Strategic Plan: Strategy III.3, Pursue Operational Effectiveness, Fiscal Responsibility, and Accountability by providing a cost-effective source of financing to fund the capital construction needs of the County and to facilitate their transfer to the County.

FISCAL IMPACT/FINANCING

There will be no fiscal impact to the County General Fund. The JCFA does not include any financial obligation for the County.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The California Municipal Finance Authority, formed by the CFD No. 2021-17, pursuant to the Mello-Roos Community Facilities Act of 1982, to provide financing for certain public facilities to be included in the development of the Spring Canyon project. The Spring Canyon project is a proposed 548-acre residential development located north of the Antelope Valley Freeway and Soledad Canyon Road, between Shadow Pines Boulevard and Agua Dulce Canyon. The development will consist of 492 single-family residences, a fire station, a Sheriff substation, three parks, three open spaces, 12 debris basins, one water reservoir, and one public school.

The Mello-Roos Community Facilities Act of 1982 requires an agreement between any jurisdiction creating a Mello-Roos CFD and any other jurisdiction that will own or operate the improvements financed through the CFD. Adoption of the Resolution to approve the Agreement will enable the California Municipal Finance Authority to finance facilities through Mello-Roos financing that are proposed to ultimately be owned and operated by the County of Los Angeles and/or the LACFCD. The facilities that will be transferred to the County under the JCFA are identified on Exhibit B and include facilities for sewer, stormwater, streets and streetlights, trails, and a park.

The JCFA, by and among the County, the California Municipal Finance Authority, and the project's developer, the Spring Canyon Recovery Acquisition LLC, sets forth the terms by which the County will approve financing by the CFD and acceptance and acquisition of the facilities to be constructed by the developer for the Spring Canyon project. The County of Los Angeles is authorized under the JCFA to inspect and approve the Developer's construction of the facilities and improvements to be acquired by the County before the facilities are accepted by the County for operation.

The enclosed JCFA agreement and resolution have been reviewed and approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

As the lead agency for the Spring Canyon project, the County of Los Angeles approved the Environmental Impact Report (EIR) for the project on August 3, 2004. The County approved an addendum to the Final EIR on June 25, 2019. The recommended action is within the scope of the project in the previously certified EIR and addendum(s). The facilities to be financed through the JCFA are considered in those documents.

There are no changes to the project or to the circumstances under which the project is undertaken that require further review under CEQA. The Statement of Overriding Considerations and mitigation monitoring reporting program that were previously adopted by your Board will continue to apply to the current actions.

Upon your Board's approval of the project, Public Works will file a Notice of Determination with the County Clerk in accordance with Section 21152 of the California Public Resources Code.

The location of the documents and other materials constituting the record of the proceedings upon which your Board's decision is based in this matter is available online at https://planning.lacounty.gov/case/view/amendment_to_tract_map_no_48086 and at the Department of Regional Planning, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials is the Section Head of the Subdivisions Section, Department of Regional Planning.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The operation and maintenance of public facilities under the purview of the County of Los Angeles and/or LACFCD are routine functions of Public Works.

CONCLUSION

Please return one adopted copy of this letter and the executed originals of the Agreement and Resolution to the Public Works, Land Development Division.

The Honorable Board of Supervisors

7/12/2022

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Pestrella". The signature is fluid and cursive, with the first name "Mark" and last name "Pestrella" clearly distinguishable.

MARK PESTRELLA, PE

Director

MP:AVV:la

Enclosures

c: Chief Executive Office (Chia-Ann Yen)
County Counsel
Executive Office
Department of Regional Planning

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES APPROVING AN ACQUISITION FUNDING AND JOINT COMMUNITY FACILITIES AGREEMENT RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY COMMUNITY FACILITIES DISTRICT NO. 2021-17 (SPRING CANYON)

WHEREAS, the California Municipal Finance Authority (CMFA) is a joint exercise of powers authority the members of which include numerous cities, counties, and other local agencies in the State of California (State); and

WHEREAS, the CMFA has established the Bond Opportunities for Land Development Program ("BOLD Program") to allow the financing of certain public facilities to be owned by local agencies in the State, through the levy of special taxes under the Mello-Roos Community Facilities Act of 1982, as amended ("Act"); and

WHEREAS, at the request of Spring Canyon Recovery Acquisition LLC, (the "Developer"), the CMFA formed a Community Facilities District ("CFD") pursuant to the Act, which is expected to levy special taxes within such CFD, and issue bonds secured by such special taxes, to finance public facilities that the Developer is required to construct as a condition of development ("County Facilities"); and

WHEREAS, pursuant to Section 53316.2 of the Act (California Government Code Section 53315.2), a CFD is authorized to finance facilities to be owned or operated by an entity other than the agency that created the district pursuant to a joint community facilities agreement; and

WHEREAS, the Developer, CMFA, and County propose to enter into an Acquisition Funding and Joint Community Facilities Agreement, in the form attached hereto as Exhibit A, authorizing and setting forth requirements for the CFD to finance County Facilities, through the CMFA's issuance of bonds and levy of special taxes on properties within the proposed CFD; and

WHEREAS, the County Facilities will be under the ownership, management, and control of County and some of the County Facilities will ultimately be transferred to the Los Angeles County Flood Control District for ownership, management, and control; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED:

1. Each of the above recitals is true and correct.

2. The Board of Supervisors finds and determines that the County Facilities are necessary to meet the increased demand that will be placed upon local agencies and public services as a result of new development within the CFD, and that the County Facilities to be financed by the CFD will be beneficial to the residents of the County and the future residents of the CFD.

3. The Board of Supervisors hereby approves the execution and delivery of the Acquisition Funding and Joint Community Facilities Agreement, substantially in the form attached hereto as Exhibit A, and the Chair of the Board of Supervisors is authorized to execute and deliver the Acquisition Funding and Joint Community Facilities Agreement, together with such changes as are approved by the Chair, with the approval of such changes to be conclusively evidenced by the execution and delivery thereof.

3. This Resolution shall be effective upon its adoption.

CELIA ZAVALA, Executive Officer-Clerk of
the Board of Supervisors of the County of
Los Angeles

By: _____
Deputy

APPROVED AS TO FORM:

DAWYN R. HARRISON
Acting County Counsel

By:  for Carole Suzuki
DEPUTY

ACQUISITION FUNDING AND JOINT COMMUNITY FACILITIES AGREEMENT

California Municipal Finance Authority BOLD Program Community Facilities District No. 2021-17 (Spring Canyon)

THIS ACQUISITION FUNDING AND JOINT COMMUNITY FACILITIES AGREEMENT ("**Agreement**") is made and entered into on this _____ day of _____, 2022, ("**Effective Date**") among Spring Canyon Recovery Acquisition LLC, a Delaware limited liability company ("**Developer**"); the California Municipal Finance Authority ("**Authority**"); and the County of Los Angeles, a political subdivision of the State of California ("**County**").

RECITALS

A. Pursuant to a request by Developer on December 10, 2021, the governing board of the Authority adopted Resolution No. _____ ("**Resolution**") forming California Municipal Finance Authority Community Facilities District No. 2021-17 (Spring Canyon) ("**CFD**") under the provisions of the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5, of the Government Code of the State of California (the "**Act**"). The CFD is authorized to levy special taxes ("Special Taxes") upon land within the CFD and issue bonds (the "**Bonds**") in one or more series to provide financing for infrastructure and other public capital improvements to be owned, operated or maintained by the County and other public agencies. The boundaries of the CFD are illustrated on Exhibit A hereto.

B. In connection with the CFD, the Developer applied to the Authority for the financing of certain public capital improvements as further described in Exhibit B hereto to be owned, operated or maintained by the County, including improvements that the County intends to transfer to the Los Angeles County Flood Control District (the "**Acquisition Improvements**").

C. The Authority is authorized to fund, among other things, all or a portion of the costs of the Acquisition Improvements through the CFD by means of Special Taxes and Bonds. The portion of the proceeds of the Special Taxes (including prepayments) and Bonds available to fund the cost of the Acquisition Improvements, together with interest earned thereon, is referred to herein as the "**Available Amount**."

D. The CFD will provide financing for the acquisition of the Acquisition Improvements and the payment of the Acquisition Price (as defined herein) of the Acquisition Improvements from the **Available Amount**.

E. The parties anticipate that pursuant to this Agreement the Developer may be reimbursed for costs of the Acquisition Improvements and, subject to the terms and conditions of this Agreement, the County will acquire the completed Acquisition Improvements.

F. Any and all monetary obligations of the Authority arising out of this Agreement are the special and limited obligations of the Authority payable only from the Available Amount, and no other funds whatsoever of the Authority or the County shall be obligated therefor under any circumstances.

G. Under California Government Code Section 53316.2, the Authority may form the CFD to, among other things, finance the Acquisition Improvements, provided that the Authority and the County enter into a joint community facilities agreement ("JCFA") such as this Agreement. This Agreement constitutes a JCFA in accordance with Section 53316.2 of the Act. Because the legislative bodies of the County and Authority have determined that this JCFA would be beneficial to the residents of those entities, the County is willing to cooperate with the Authority in the Authority's financing of the Acquisition Improvements and to confer upon the Authority the full power to provide financing for the Acquisition Improvements in the event that proceeds of special taxes and/or bonds of the CFD become available and are utilized for such purpose by executing this Agreement under the authority of Section 53316.2 of the Act.

H. In consideration of the formation of the CFD and the issuance of the Bonds, and the mutual covenants, undertakings and obligations set forth below, the County, the Authority and the Developer agree as stated below.

I. Attached to this Agreement are Exhibit A (Map of CFD Boundary), Exhibit B (Description of Acquisition Improvements and Estimated Costs), Exhibit C (Actual Cost Certificate), Exhibit D (Disbursement Request Form), Exhibit E (Letter of Concurrence Form) and Exhibit F (Potential Change of Work Form), all of which are incorporated into this Agreement for all purposes.

AGREEMENT

NOW, THEREFORE, in consideration of the faithful performance of the terms and conditions set forth in this Agreement, the parties hereto agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are true and correct and are hereby incorporated into and form a material part of this Agreement.

2. Effect on Other Agreements. Nothing in this Agreement shall be construed as affecting the Developer's or the County's duty to perform their respective obligations under any other agreements (including the Development Documents defined below), land use regulations or subdivision requirements related to the Project, which obligations are and shall remain independent of the Developer's and the County's rights and obligations under this Agreement. The Developer shall not be relieved of its obligation to construct any of the Acquisition Improvements and convey them to the County in accordance with the Development Documents, land use regulations or subdivision requirements related to the Project even if the Available Amount is insufficient to fund the costs of such Acquisition Improvements. In no event shall the County have any obligation pursuant to this Agreement to fund the costs of completing the Acquisition Improvements.

3. Definitions. As used herein, including the Recitals and all Exhibits, the following capitalized terms shall have the meanings ascribed to them below:

"Acceptable Title" means title that is free and clear of all monetary liens, encumbrances, assessments, whether any such item is recorded or unrecorded, and taxes, except (i) those items which are reasonably determined in the sole discretion of the County Authorized Officer not to interfere with the intended use and therefore are not required to be cleared from the title and (ii) obligations of the property for any taxes, assessments or fees from which the County is not exempt.

“Acquisition and Project Fund” means the “CMFA CFD No. 2021-17 (Spring Canyon) Acquisition and Project Fund” established and held by the Authority pursuant to Section 6.2.1 hereof and established and held by the Authority Trustee pursuant to the Authority Trust Agreement and Section 6.2.2 for the purpose of paying the Acquisition Price of the Acquisition Improvements.

“Acquisition Improvement” means a public capital improvement, described in Exhibit B, as it may be amended from time to time.

“Acquisition Price” means the total approved Actual Costs eligible to be paid to the Developer from the Available Amount, upon acquisition by the County of an Acquisition Improvement, determined in accordance with Section 6.3.3, not to exceed the Actual Cost of the Acquisition Improvement.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5, of the Government Code of the State of California.

“Actual Cost” means the total paid cost of an Acquisition Improvement, as documented by the Developer to the satisfaction of the County Authorized Officer in an Actual Cost Certificate including, without limitation, (a) the Developer’s Hard Construction Costs and the grading costs attributable to such Acquisition Improvement, as determined by the County Authorized Officer, (b) the Developer’s cost of designing and engineering the Acquisition Improvement, preparing the plans and specifications and bid documents for such Acquisition Improvement, and the costs of inspection, materials testing and construction staking for such Acquisition Improvement, (c) the Developer’s cost of any performance, payment and maintenance bonds and insurance, including title insurance, required hereby for such Acquisition Improvement, (d) the actual cost of Developer’s actions necessary to ensure the design and construction of the Acquisition Improvements meets the mitigation, monitoring, and reporting plan described in the applicable approved final environmental impact report, except any costs related to litigation, (e) fees actually paid by the Developer, such as permit and plan processing fees relating directly to the Acquisition Improvement, and (f) the Developer’s construction management costs in an amount equal to 3% of the eligible Hard Construction Costs, as determined by the County Authorized Officer.

“Actual Cost Certificate” means a certificate prepared by the Developer in substantially the form shown in Exhibit C detailing the Actual Cost of an Acquisition Improvement, to be acquired hereunder, as may be revised by the County Authorized Officer pursuant to Section 6.3.3.

“Agreement” means this Acquisition Funding and Joint Community Facilities Agreement, fully executed as of the Effective Date, by and among the County, the Authority, and the Developer.

“Authority” means the California Municipal Finance Authority.

“Authority Trust Agreement” means a trust agreement, indenture or fiscal agent agreement entered into by the Authority and an Authority Trustee or Fiscal Agent in connection with the issuance of a series of Bonds on behalf of the CFD.

“Authority Trustee” or “Fiscal Agent” means the financial institution identified as trustee or fiscal agent in an Authority Trust Agreement.

“Available Amount” shall have the meaning assigned to the term in Recital C.

“Board of the Authority” means the Board of the California Municipal Finance Authority.

“Bonds” means bonds or other indebtedness issued in one or more series by the Authority that are to be repaid with Special Taxes.

“CFD” shall have the meaning assigned to the term in Recital A.

“Code” means the Government Code of the State of California.

“County Authorized Officer” means the Los Angeles County Director of Public Works or any designee thereof.

“Developer” means Spring Canyon Recovery Acquisition LLC, a Delaware limited liability company, and its successors and assigns.

“Development Documents” means, as applicable, one or more of the following: (i) an improvement agreement between the Developer and the County concerning an Acquisition Improvement (sometimes referred to by the County as a “Multiple Agreement”); (ii) improvement plans submitted by the Developer to the County concerning an Acquisition Improvement; (iii) any and all conditions of approval and mitigation measures imposed in connection with the granting of land use entitlements, permits and approvals for the Project; and (iv) any other agreement with the County or County condition of development concerning an Acquisition Improvement.

“Disbursement Request Form” means a requisition for payment of funds by the County Authorized Officer from an Acquisition and Project Fund for an Acquisition Improvement in substantially the form contained in Exhibit D.

“Hard Construction Costs” means the costs of labor, materials and equipment that the Developer pays to a construction contractor pursuant to a construction contract solicited in accordance with Sections 5.3 and 5.11, including any change orders approved in accordance with Section 5.7.

“Plans” means the plans and specifications for the Acquisition Improvements which have been approved by all appropriate departments of the County, and from each other public entity or public utility from which such approval must be obtained.

“Prior Bid Acquisition Improvements” are Acquisition Improvements bid prior to January 1, 2022, as further described in Section 5.11 and as identified in Exhibit B.

“Project” means the Developer's development of the property in the CFD in accordance with Vesting Tentative Tract Map No. 48086 and the offsite improvements serving property in the CFD, including the design and construction of the Acquisition Improvements.

“Soft Costs” means engineering and architecture costs and other professional services incurred in the design and construction of an Acquisition Improvement.

“Special Taxes” means annual special taxes, and prepayments thereof, authorized by the CFD to be levied by the Board of the Authority within the CFD.

“Title Documents” means, for each Acquisition Improvement acquired hereunder, an instrument acceptable to the County transferring right, title and interest in and to the portion of the land owned by the Developer related to the Acquisition Improvement to be acquired hereunder, including any construction or access easements, and to the Acquisition Improvement to the County, where applicable.

4. Purpose; Effective Date; Developer Deposit.

4.1. Purpose. The purpose of this Agreement is to provide financing for the Acquisition Improvements from the Available Amount.

4.2. Effective Date. The Effective Date of this Agreement shall be as set forth in the preamble above.

4.3 Developer Deposit for County Costs. The Developer has provided County with a deposit of \$45,000 (the “Initial Deposit”) to fund the County’s documented costs incurred in conjunction with reviewing and approving this Agreement (the “Initial Costs”). The Initial Deposit and any subsequent deposit made by the Developer pursuant to this Agreement shall be referred to as the “Deposit.” To the extent the Initial Deposit is expected to exceed the Initial Costs, the County may request in writing an additional amount from the Developer. In addition, the County may request in writing one or more additional Deposits from the Developer to pay the County’s documented costs incurred in administering and performing its obligations pursuant to this Agreement (the “Administration Costs”). Payments of each such additional Deposit shall be made by the Developer within 15 days of the County’s written request. The amount of the Deposit expended by the County on Initial Costs and Administration Costs shall be reimbursed to the Developer from the Available Amount. When payment requests for all Acquisition Improvements have been completed and processed by the County or Developer notifies the County it will not submit any additional payment requests, the unexpended and unencumbered portion of the Deposit shall be returned to the Developer.

5. Design and Construction of Acquisition Improvements.

5.1 Plans for Acquisition Improvements. The Developer represents that it has obtained or will obtain approval of the Plans for the Acquisition Improvements from all appropriate departments of the County, and from each other public entity or public utility from which such approval must be obtained. The Developer further represents that the Acquisition Improvements have been or will be constructed in full compliance with such Plans and any change orders thereto, as approved in the same manner.

5.2 Duty of Developer to Construct. All Acquisition Improvements to be acquired hereunder shall be constructed by or at the direction of the Developer (or its licensed affiliate). All such Acquisition Improvements shall be constructed in accordance with the applicable legal requirements, the approved Plans, the Development Documents and this Agreement. The Developer (or its licensed affiliate) shall perform all of its obligations hereunder and shall conduct all operations with respect to the construction of the Acquisition Improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing their commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken.

The Developer shall be obligated: (i) to construct, or cause to be constructed, and cause conveyance of all Acquisition Improvements in accordance with the Development Documents , and (ii) subject to the use of the Available Amount to pay the Acquisition Price (as defined herein) of Acquisition Improvements in accordance with this Agreement, to use its own funds to pay all costs associated with such construction and conveyance(s), except as may be otherwise expressly provided in the Development Documents.

The Developer shall not be relieved of its obligation to construct each Acquisition Improvement and convey each such Acquisition Improvement to the County or other public agency in accordance with the Development Documents and this Agreement even if the total Available Amount over time is insufficient to pay the Acquisition Price thereof. This Agreement shall not alter any obligation of the Developer or any owner of land in the Project relating to the public improvements required in connection with the development of land within the Project, whether such obligation is imposed pursuant to the Development Documents or arises under any other law, regulation, government approval, or for any other reason.

5.3 Bid Procedures for Acquisition Improvements. The following bid procedures shall apply to contracts for the construction of Acquisition Improvements under this Agreement except for the **Prior Bid Acquisition Improvements** (as defined herein and further described in Section 5.11), which are Acquisition Improvements that were bid prior to the date of this Agreement. These bid procedures do not apply to Soft Costs, or to any materials needed in the construction of the Acquisition Improvements. For materials that are not included in a bid as described in this section, the Developer will request bids from at least three vendors and purchase materials from the lowest cost responsive supplier.

(i) Developer shall work with the County Authorized Officer to create a list of pre-qualified contractors using a set of objective prequalification factors mutually acceptable to the Developer and the County.

(ii) The Developer shall request bids (A) from at least three (3) pre-qualified contractors or (B) if due to the nature of the Acquisition Improvement being constructed, the number of pre-qualified contractors is less than three, then the request for bids from less than three contractors is acceptable if determined by the County Authorized Officer to be acceptable.

(iii) Developer shall distribute notices inviting formal bids to the prequalified contractors in accordance with subsections (i) and (ii)t. The notices shall be distributed (by mail or email) no more than thirty (30) calendar days and not less than 10 calendar days before the opening date of the bids. The notices shall distinctly describe the Acquisition Improvement to be constructed and state the time and place for submission of bids.

(iv) Bids shall be submitted to the Developer either via email or deposit into an electronic portal, as the Developer may direct from time to time. The bids shall be received and opened by the Developer and there shall be no requirement for a public bid opening. At the time that the bids are due, the Developer shall open the bids that have been received. The Developer may contact one or more of the bidders and request clarification of any bid or adjustments to the bid to comply with the specifications of the proposed Acquisition Improvement so that all bids may be evaluated on a comparable basis.

(v) Developer shall submit to the County Authorized Officer written evidence of compliance with the competitive bidding procedures set forth herein, including evidence of the required noticing, a listing of those to whom bids were requested, a listing of all responsive bids and their amounts (as adjusted pursuant to subsection (iv), if applicable), and the name or names of the contractor or contractors to whom the Developer proposes to award the contracts for such construction.

(vi) The bidding documents for the Acquisition Improvements shall require (A) performance of services in accordance with the approved Plans (as modified or amended from time to time), (B) liability and worker's compensation insurance naming the Developer, the County, and their respective designees as additional insureds, (C) retention amounts, and (D) performance and payment bonds.

(vii) The contract for the construction of an Acquisition Improvement shall be awarded to the responsible bidder submitting the lowest responsive bid (as adjusted pursuant to subsection (iv), if applicable) for the construction of such Acquisition Improvement, subject to written concurrence from the County Authorized Officer as provided in Section 5.6.

5.4 Prevailing Wages. The Developer covenants that it will require that all contracts or subcontracts for the construction of the Acquisition Improvements require compliance with any applicable law or regulation for the payment of prevailing wages for such construction.

5.5 Applicability of Public Contracts Code. The parties hereto agree that this Agreement is for the acquisition of certain Acquisition Improvements to be acquired by the County and is not nor is intended to be a public works contract under the California Public Contracts Code. The Authority, County and the Developer agree that the provisions of the California Public Contracts Code do not apply to the construction of the Acquisition Improvements. The Authority, County and the Developer agree that this Agreement is necessary to assure the timely and satisfactory completion of the Acquisition Improvements and establishes the terms under which the Acquisition Improvements shall be constructed as if they were constructed under the direction and supervision, or under the authority of, the County I, as applicable as required by the Act. In performing this Agreement, the Developer is an independent contractor and not the agent of the County or the Authority. Neither the County nor the Authority shall have responsibility for payment to any contractor or supplier of the Developer. Notwithstanding the foregoing, the Developer shall be required to post all payment and performance bonds required by the Development Documents.

5.6 Construction Contracts for Acquisition Improvements. The Developer (or its licensed affiliate) shall be responsible for entering into all contracts required for the construction of the Acquisition Improvements. All such contracts shall be submitted to the County Authorized Officer for review and concurrence prior to commencement of the work identified in the contract. For all construction contracts, as well as Soft Costs related to the construction work, Developer shall provide to the County Authorized Officer a spreadsheet of the construction bid results, the anticipated cost for Soft Costs, and a letter requesting the County Authorized Officer's concurrence ("**Letter of Concurrence**") of funding eligibility and award of the construction contract to the responsible bidder submitting the lowest responsive bid. The form of Letter of Concurrence is attached hereto as Exhibit E. The County Authorized Officer shall make reasonable efforts to review construction contracts and provide a Letter of Concurrence within ten (10) business days. If time is of the essence, the Developer may proceed at its own risk, and potentially forfeit reimbursement from the Available Amount for such work, pending approval of the contract and provision of the Letter of Concurrence; provided, however, that in no event shall

the Developer be permitted to submit, or obtain approval of, a contract more than twenty (20) business days following the execution of a contract with a contractor (the parties acknowledging that the Developer may under certain circumstances need to cause the contractor to commence work under such contract in the field prior to the submission to the County Authorized Officer).

5.7 Change Orders for Acquisition Improvements. The Developer (or its licensed affiliate) shall be responsible for entering into all change orders required for the construction of the Acquisition Improvements. The Developer shall submit change order documentation to the County Authorized Officer accompanied by a Potential Change of Work ("**PCOW**") Form to determine funding eligibility and to obtain County approval prior to implementing changes. The County Authorized Officer shall make reasonable efforts to approve the PCOW Form within five (5) business days. The PCOW Form is attached hereto as Exhibit F. If time is of the essence, the Developer may proceed at its own risk, and potentially forfeit reimbursement from the Available Amount for this work, pending County approval of the changes; provided, however, that in no event shall the Developer be permitted to submit a PCOW Form more than twenty (20) business days following the issuance of a written change order to the contractor (the parties acknowledging that the Developer may under certain circumstances need to cause the contractor to commence such implementing changes in the field prior to the final design or engineering and written change order being written and executed by the Developer and applicable contractor). Approved PCOW Forms shall include the signature of the County Authorized Officer inspector assigned to inspect the Acquisition Improvement.

5.8 Independent Contractor. In performing this Agreement, the Developer is an independent contractor and not the agent or employee of the County or the Authority. Neither the County nor the Authority shall be responsible for making any payments directly to any contractor, subcontractor, agent, employee or supplier of the Developer.

5.9 Periodic Meetings for Acquisition Improvements. From time to time at the request of the County Authorized Officer, representatives of the Developer shall meet and confer with County staff, consultants and contractors regarding matters arising hereunder with respect to the Acquisition Improvements and the progress in constructing and acquiring the same, and as to any other matter related to the Acquisition Improvements or this Agreement. The Developer shall advise the County in advance of any coordination and scheduling meetings to be held with its contractors relating to the Acquisition Improvements, in the ordinary course of performance of an individual contract. The County shall have the right to be present at such meetings, and to meet and confer with individual contractors if deemed advisable by the County to resolve disputes and/or ensure the proper completion of the Acquisition Improvements.

5.10 Non-County Improvements. Any improvements to be acquired by a utility or a local agency other than the County and for which Developer seeks reimbursement from the Available Amount shall be bid and constructed in accordance with an agreement between the Developer and the utility, district, or agency.

5.11 Prior Bid Acquisition Improvements. Notwithstanding anything herein to the contrary, prior to the execution of this Agreement, the Developer has solicited bids and may have begun or completed construction for the Acquisition Improvements identified in Exhibit B attached hereto as "Prior Bid Acquisition Improvements" (the "**Prior Bid Acquisition Improvements**"). The Developer certifies as to the following with respect to the Prior Bid Acquisition Improvements: The Prior Bid Acquisition Improvements were bid consistently with the following: (i) the contract was competitively bid and the construction contract was awarded to the responsible bidder submitting the lowest responsive bid, (ii) the contractors identified in Exhibit B for each Prior Bid Acquisition Improvement are reputable, licensed contractors registered with the California Contractors State License Board, (iii) the bid was received in an arms-length transaction with the

Developer, and (iv) the bidders have no proprietary interest in the any portion of overall Project. Upon written request by the County Authorized Officer, the Developer will supply backup documentation to demonstrate compliance with the bid procedures in (i)-(iv) above for the Prior Bid Acquisition Improvements in order to be eligible for payment of their Acquisition Price pursuant to this Agreement.

5.12 Inspection. No final payment of the Acquisition Price hereunder shall be made to the Developer for an Acquisition Improvement or other improvement until the Acquisition Improvement or other improvement has been inspected by the County or other applicable public entity or utility and found to be constructed in accordance with the Plans approved by the County or other applicable public entity or utility. The Developer shall request inspection of the Acquisition Improvements using applicable County procedures. The Developer agrees to pay all inspection, permit and other fees required by the County applicable to construction of the Acquisition Improvements, which fees shall be subject to reimbursement under this Agreement as part of the Actual Cost (as defined below) of the Acquisition Improvements.

6. Funding of Improvements through the CFD.

6.1. Establishment of CFD. Developer has requested the Authority provide financing of the Acquisition Improvements through the establishment and authorization of the CFD. The CFD has been established by the Authority, and through the successful landowner election held in conformance with the Act, the Board of the Authority is authorized to levy the Special Taxes and to issue the Bonds to finance the Acquisition Improvements. Developer, the County, and the Authority agree to reasonably cooperate with one another in the completion of the financing through the issuance of the Bonds in one or more series.

6.2. Deposit and Use of Available Amount.

6.2.1. Acquisition and Project Fund Held by Authority. Prior to the issuance of the first series of Bonds, Special Taxes collected by the Authority (including from prepayments of Special Taxes) shall be deposited in the Acquisition and Project Fund established by the Authority and may be disbursed to pay the Acquisition Price of Acquisition Improvements in accordance with this Agreement. All funds in the Acquisition and Project Fund shall be considered a portion of the Available Amount, and upon the issuance of the first series of Bonds, the Acquisition and Project Fund shall be transferred to the Authority Trustee to be held in accordance with the Authority Trust Agreement.

6.2.2. Acquisition and Project Fund Held by Trustee. Upon the issuance of the first series of Bonds, the Authority will cause the Authority Trustee to establish and maintain a separate Acquisition and Project Fund for the purpose of holding all funds derived from the issuance of the Bonds for the financing of Acquisition Improvements. Separate subaccounts may be established for each issue of Bonds. All earnings on amounts in the Acquisition and Project Fund or subaccount shall remain in such Acquisition and Project Fund or subaccount for use as provided herein and pursuant to the applicable Authority Trust Agreement. Money in each and every Acquisition and Project Fund subaccount shall be available to respond to delivery of a Disbursement Request Form and to be paid to the Developer or its designee to pay the Acquisition Price of the Acquisition Improvements to the extent the Acquisition Price has not previously been paid from the Available Amount. Upon completion of all of the Acquisition Improvements and the payment of all costs thereof, any remaining funds in each Acquisition and Project Fund (less any amount determined by the Authority as necessary to reserve for claims against the account) (i) shall be applied to pay the costs of any other non-County improvements eligible for acquisition and, to the extent not so used, (ii) shall be applied by the Authority to call Bonds or to reduce Special Taxes as the Authority shall determine.

6.3. Payment for Acquisition Improvements.

6.3.1 Conveyance of Acquisition Improvements. The Developer agrees to convey to the County each Acquisition Improvement to be constructed by Developer, or its licensed affiliate, (including any rights-of-way or other easements necessary for the Acquisition Improvements, to the extent not already publicly owned), when the Acquisition Improvement is Complete (defined below). At the time an Acquisition Improvement is Complete, the Developer shall deliver to the County Authorized Officer Title Documents required by the County for the transfer of the Acquisition Improvement where necessary, and as-built Plans that are verified and stamped by a civil engineer licensed in the State of California).

6.3.2 Request for Payment. When an Acquisition Improvement is Complete, Developer may submit to the County Authorized Officer an Actual Cost Certificate for the Acquisition Improvement requesting payment of the Acquisition Price (as determined below). The term **"Complete"** means the construction of an Acquisition Improvement is, in the sole discretion of the County Authorized Officer, in all respects satisfactorily complete in accordance with the Plans and ready for serviceable use, and the County has issued a Notice of Completion. The Actual Cost Certificate shall be in the form attached hereto as Exhibit C and include such necessary information (including invoices, receipts, worksheets and other evidence of cost as required by the County Authorized Officer) in sufficient detail to allow the County Authorized Officer to verify the Acquisition Price.

6.3.3 Determination of Acquisition Price/County Inspection. The estimated cost of the Acquisition Improvements is shown in Exhibit B attached hereto. Notwithstanding such estimated costs, all parties to this Agreement hereby acknowledge and agree that (a) the Actual Costs to complete the Acquisition Improvements may vary from this estimate, and (b) the Acquisition Price shall never exceed the Actual Cost of any Acquisition Improvement. Upon submittal of a complete (as reasonably determined by the County Authorized Officer) Actual Cost Certificate, the County Authorized Officer shall determine the total Actual Cost of the Acquisition Improvement based upon the contract prices as set forth in contracts and purchase orders entered into by Developer with its contractors, and suppliers, in accordance with standards and procedures therefore as prescribed by the County Authorized Officer, which total Actual Cost shall be the **"Acquisition Price."** For costs that are not subject to competitive bidding requirements, Actual Costs shall not include amounts in excess of what is reasonable and customary, as determined by the County Authorized Officer.

The County Authorized Officer shall have thirty (30) days from receipt of an Actual Cost Certificate to review and determine the Acquisition Price.

Developer may submit an Actual Cost Certificate in advance of bond issuance. However, no payment of the Acquisition Price shall be made prior to bond issuance unless funds are available from the collection of Special Taxes.

Upon determination of the Acquisition Price, the County Authorized Officer shall promptly notify Developer in writing of such Acquisition Price. In the event that the County Authorized Officer, during such time period, finds that the supporting paperwork submitted by the Developer fails to properly substantiate the Actual Cost or demonstrate the required relationship between the subject Actual Cost and eligible work, the County Authorized Officer shall advise the Developer that the amount set forth on the Actual Cost Certificate (or the ineligible portion thereof) has been disallowed and shall request further documentation from the Developer. Once the Developer delivers the further documentation, the County Authorized Officer and the County shall have twenty (20) days to review the additional documentation. If the County Authorized Officer

determine that further documentation is still not adequate, the County Authorized Officer shall notify the Developer in writing within such twenty-day period and may revise the Actual Cost Certificate to delete any disallowed items and the determination shall be final and conclusive. If only a portion of the Actual Cost requires further documentation, the County Authorized Officer shall include the Actual Costs that do not require further documentation in the determination of the Acquisition Price.

Upon determination of the Acquisition Price, the County Authorized Officer shall prepare a Disbursement Request Form as shown in Exhibit D and submit it to the Authority and Authority Trustee.

6.3.4 Conditions Precedent to Payment of Acquisition Price/County Inspection. Payment to the Developer or its designee of the Acquisition Price for an Acquisition Improvement shall in every case be conditioned upon the County Authorized Officer's determination of satisfaction of the following additional conditions precedent:

(a) The County shall have issued a Notice of Completion to the Developer for the Acquisition Improvement.

(b) The Developer shall have provided the County with the lien releases or other similar documentation satisfactory to the County Authorized Officer as evidence that none of the property (including any rights-of-way or other easements necessary for the operation and maintenance of the Acquisition Improvement, to the extent not already publicly owned) comprising the Acquisition Improvement is subject to any prospective mechanics lien claim respecting the Acquisition Improvements.

(c) The Developer shall have provided the County Title Documents needed to provide the County with title to the Acquisition Improvement site, right-of-way, or easement upon which the subject Acquisition Improvement is situated. All such Title Documents shall be in a form acceptable to the County and shall convey Acceptable Title. The Developer shall provide a policy of title insurance as of the date of transfer in a form acceptable to the County Authorized Officer insuring the County as to the interests acquired. Each title insurance policy required hereunder shall be in the amount equal to the Acquisition Price. The amount paid to the Developer or its designee upon satisfaction of the foregoing conditions precedent shall be the Acquisition Price less all installment payments paid previously with respect to the Acquisition Improvement.

6.3.5 Payment of Acquisition Price. Within ten (10) business days after receipt of a complete Disbursement Request Form, the Authority, through the Authority Trustee, shall authorize payment, from the Available Amount, of the Acquisition Price then due to Developer. However, if the Developer is not current in the payment of all due and payable general property taxes and all Special Taxes of the CFD on property owned by the Developer within the CFD, the Authority Trustee may direct the Authority to withhold such payment until the Developer brings all such property taxes and Special Taxes current.

Payments to Developer shall be payable solely from the Available Amount. The amount to be paid to Developer shall be a reimbursement for Actual Costs incurred as determined by the County Authorized Officer in accordance with this Agreement and shall not exceed the Developer's cost thereof as reasonably determined by the County Authorized Officer to be eligible under the Act and approved in the Disbursement Request Form. All portions of the Acquisition Improvement not reimbursed by the Available Amount shall nonetheless be constructed by the Developer and transferred to the County, to the extent required by the Development Documents. In the event the Available Amount is insufficient to pay the eligible Acquisition Price, any shortfall shall be the responsibility of the Developer; however, Developer may request that all or any

portion of such shortfall be reimbursed from additional series of bonds for the CFD if and when such additional bonds are issued or additional Special Tax proceeds are available, and in such event the deferred amount will be paid from available proceeds of such future bonds or Special Tax proceeds.

The Authority Trustee shall make payment directly to the Developer or its designee, if directed by the Developer, of the amount included in an executed Disbursement Request Form pursuant to the applicable Authority Trust Agreement. The Authority, the County, and the Developer acknowledge and agree that the Authority Trustee shall make payment strictly in accordance with the Disbursement Request Form and shall not be required to determine whether or not the Acquisition Improvement has been completed or what the Acquisition Price may be with respect to the Acquisition Improvement. The Authority Trustee shall be entitled to rely on the executed Disbursement Request Form on its face without any further duty of investigation. In the event that the Acquisition Price of an Acquisition Improvement is in excess of the Available Amount, the Authority Trustee shall withdraw all funds remaining in the applicable Acquisition and Project Fund and shall transfer those amounts to the Developer or its designee. The unpaid portion of the Acquisition Price shall be paid from funds that may subsequently be deposited in the same or another Acquisition and Project Fund from a subsequent issuance of Bonds, from prepayments of Special Taxes to be used to fund Acquisition Improvements, or from Special Tax revenues, if any of those occurs. In no event shall the Authority be required to pay the Developer or its designee more than the Available Amount (available from time to time).

6.4. Audit. The County and the Authority shall each have the right, during normal business hours and upon the giving of ten calendar days' written notice to the Developer, to review all books and records of the Developer pertaining to costs and expenses incurred by the Developer (for which the Developer seeks reimbursement pursuant to this Agreement) in constructing the Acquisition Improvements, including costs relating to property interests necessary for the Acquisition Improvement.

7. Indemnity and Insurance.

7.1. Indemnification. Developer agrees to indemnify, defend and hold the County, and Authority, including elective and appointed boards, commissions, officers, agents, employees and consultants (each an "**Indemnified Party**" and collectively the "**Indemnified Parties**"), harmless from and against any and all claims, liabilities, losses, damages or injuries of any kind (collectively, "**Claims**") arising out of Developer's, or Developer's contractors', subcontractors', agents' or employees', acts, omissions, or operations under this Agreement, including, but not limited to, the construction by the Developer of any Acquisition Improvement, whether such acts, omissions, or operations are by Developer or any of Developer's contractors, subcontractors, agents or employees, except to the extent such Claims are caused by the sole negligence or willful misconduct of an Indemnified Party. This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of County and Authority, its elected officials, officers, employees, and/or agents for all legal expenses and costs incurred by each of them. Developer shall defend the Authority and County as required by California Civil Code Section 2778, and with counsel reasonably acceptable to the County and Authority. Developer shall have no right to seek reimbursement from County or Authority for the costs of defense.

The aforementioned indemnity shall apply regardless of whether or not County has approved plans and/or specifications for the Acquisition Improvements and regardless of whether any insurance, workers compensation, disability or other employee benefit acts or terms required under this Agreement are applicable to any Claims. The County shall not waive any of its rights under this indemnity provision because of its acceptance of the bonds or insurance required under

the provisions of this Agreement. Developer's obligations to indemnify the County, and Authority shall survive the expiration or termination of this Agreement. Developer agrees to obtain executed indemnity agreements in favor of the County with provisions identical to those set forth here in this section from each and every construction contractor involved by, for, with or on behalf of Developer in the performance of this Agreement. Notwithstanding the foregoing, Developer agrees to be fully responsible according to the terms of this section. Failure of County to monitor compliance with these requirements imposes no additional obligations on County and will in no way act as a waiver of any rights hereunder.

7.2. Insurance. For an Acquisition Improvement, Developer shall maintain insurance in amount and substance as required by the County under any Development Documents applicable to such Acquisition Improvement.

8. Breach of Agreement; Opportunity to Cure; Remedies.

8.1. Notice of Breach and Default. The occurrence of any of the following constitutes a breach and default of this Agreement:

(1) Developer refuses or fails to complete any Acquisition Improvement within the time set forth in the applicable Development Documents or abandons the construction of an Acquisition Improvement.

(2) Developer assigns the Agreement to an unaffiliated entity without the prior written consent of Authority and County.

(3) Developer is adjudged bankrupt or makes a general assignment for the benefit of creditors, or a receiver is appointed in the event of Developer's insolvency.

(4) Developer or Developer's contractors, subcontractors, agents or employees, fail to comply with any terms or conditions of this Agreement to which the Developer or Developer's contractors, subcontractors, agents, or employees are subject.

(5) Developer fails to perform any obligation under this Agreement. The Authority and County must serve written notice of breach and default upon Developer (and any surety that has provided bonds with respect to an Acquisition Improvement). Developer shall have 30 days to cure the breach and default described in the written notice of breach and default.

(6) County fails to perform any obligation under this Agreement. Developer must serve written notice of breach and default upon the County. The County shall have 30 days to cure the breach and default described in the written notice of breach and default.

8.2. Breach of Agreement; Performance by County. If the County gives Developer notice under Section 8.1 and Developer fails to cure the breach and default described in the written notice prior to the expiration of the applicable cure period, a "**Developer Event of Default**" shall be deemed to have occurred. In the event of the occurrence and continuation of a Developer Event of Default, the County may exercise the remedies described in Section 8.3 below, including the right of the County to proceed to complete the Acquisition Improvement by contract or other method the County considers advisable, at the sole expense of Developer; however, County is under no financial or performance obligation to complete the Acquisition Improvement. Where funds are currently available from the collection of Special Taxes, said funds shall be used first for completion of the Acquisition Improvements in the event that the County elects to complete the Acquisition Improvement. In the event of the occurrence and continuance of a Developer Event of Default, (i) Developer, immediately upon demand, shall pay all costs and charges related

to the Acquisition Improvement and any subsequent repairs, provided, upon such payment, Developer shall be entitled to payment for the Acquisition Improvement from the Available Amount in accordance with this Agreement, (ii) County, without liability for doing so, may take possession of and utilize in completing the Acquisition Improvement and repairs, if any, such materials and other property belonging to Developer as may be on or about the construction site of the Acquisition Improvement that is necessary for completion of the Acquisition Improvement, and (iii) the County may draw upon any surety bonds required by the applicable Development Documents and/or Available Amount.

If the Developer gives the County notice under Section 8.1(6) and County fails to cure the breach and default described in the written notice prior to the expiration of the applicable cure period, a “**County Event of Default**” shall be deemed to have occurred.

8.3. Remedies. It is acknowledged by the parties that the County would not have entered into this Agreement if it were to be liable in damages under or with respect to this Agreement or the application thereof, other than for the payment to the Developer of any moneys paid by the Developer pursuant to the provisions hereof which are misappropriated or improperly obtained, withheld or applied by the County.

In general, upon the occurrence and continuation of a Developer Event of Default or a County Event of Default, the applicable party may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that the County shall not be liable in damages to the Developer or to any assignee or transferee of the Developer other than for the payments to the Developer specified in the preceding paragraph. Subject to the foregoing, the Developer covenants not to sue for or claim any damages for any alleged breach of, or dispute which arises out of, this Agreement.

9. Miscellaneous.

9.1. Compliance with Laws. Developer shall fully comply with all federal, state, and local laws, ordinances, and regulations in the performance of this Agreement. Developer shall, at its own cost and expense, obtain all necessary permits and licenses for each Acquisition Improvement, give all necessary notices, pay all fees and taxes required by law and make any and all deposits legally required by those public utilities that will serve the development on the Project. Copies and/or proof of payment of said permits, licenses, notices, fee and tax payments and deposits shall be furnished to the County Authorized Officer upon request.

9.2. Cooperation. The County, the Authority and the Developer agree to cooperate with respect to the completion of the financing of the Acquisition Improvements by the Authority through the levy of the Special Taxes and issuance of Bonds. The County, the Authority, and the Developer agree to meet in good faith to resolve any differences on future matters which are not specifically covered by this Agreement.

9.3. General Standard of Reasonableness. Any provision of this Agreement which requires the consent, approval or acceptance of any party hereto or any of their respective employees, officers or agents shall be deemed to require that the consent, approval or acceptance not be unreasonably withheld or delayed, unless the provision expressly incorporates a different standard. The foregoing provision shall not apply to provisions in the Agreement which provide for decisions to be in the sole discretion of the party making the decision.

9.4. Notices. Formal written notices, demands, correspondence and communications between County, Authority, and Developer shall be sufficiently given if: (a) personally delivered; or (b) dispatched by next day delivery by a reputable carrier such as Federal Express to the offices

of County and Developer indicated below, provided that a receipt for delivery is provided; or (c) if dispatched by first class mail, postage prepaid, to the offices of County and Developer indicated below. Such written notices, demands, correspondence and communications may be sent in the same manner to such persons and addresses as either party may from time-to-time designate by next day delivery or by mail as provided in this section.

County: County of Los Angeles
Los Angeles Department of Public Works
900 South Fremont Avenue
Alhambra, CA 91803
Attn: Land Development Division

Authority: California Municipal Finance Authority
2111 Palomar Airport Road, Suite 320
Carlsbad, CA 92011
Attn: Edward J. Becker

Developer: Spring Canyon Recovery Acquisition LLC
c/o Raintree Investment Corporation
2753 Camino Capistrano, Suite A-1
San Clemente, CA 92672
Attn: Matt Villalobos

With a copy to: O'Neil LLP
Attn: John P. Yeager
19900 MacArthur Blvd., Suite 1050
Irvine, CA 92612

Notices delivered by deposit in the United States mail as provided above shall be deemed to have been served two (2) business days after the date of deposit if addressed to an address within the State of California, and three (3) business days if addressed to an address within the United States but outside the State of California.

9.5 [This Section intentionally left blank]

9.6. Entire Agreement. The terms and conditions of this Agreement constitute the entire agreement among Authority, County and Developer with respect to the matters addressed in this Agreement. This Agreement may not be altered, amended or modified without the written consent of all parties hereto.

9.7. Conflict with Other Agreements. Nothing contained herein shall be construed as releasing the Developer from any condition of development or requirement imposed by the Development Documents or other agreement associated with the Project.

9.8. Assignment. The obligations and rights of the parties to this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, but, those rights and obligations shall not be assignable, transferable or delegable, without the express written consent of the other parties hereto, such consent to not be unreasonably withheld, and any attempted assignment, transfer or delegation thereof which is not made pursuant to the terms hereof shall be void. Any assignment shall be contingent on Developer providing a written assignment and assumption agreement to County and Authority that is acceptable to the County and Authority, immediately upon such assignment.

9.9. Time is of the Essence. Time is of the essence of this Agreement and of each and every term and condition hereof.

9.10. Severability. If any provision of this Agreement is held, to any extent, invalid, the remainder of this Agreement shall not be affected, except as necessarily required by the invalid provision, and shall remain in full force and effect.

9.11. Waiver or Modification. Any waiver or modification of the provisions of this Agreement must be in writing and signed by the authorized representative(s) of each party. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by another party, or the failure by a party to exercise its rights upon the default of another party, shall not constitute a waiver of any party's right to insist upon and demand strict compliance by another party with the terms of this Agreement.

9.12. Relationship of the Parties. Neither Developer nor the Authority nor either's contractors, subcontractors, agents, officers, or employees are agents, partners, joint ventures or employees of County, and the Developer's relationship to the County, if any, arising herefrom is strictly that of an independent contractor. Developer's contractors and subcontractors are exclusively and solely under the control and dominion of Developer. Further, there are no intended third-party beneficiaries of any right or obligation assumed by the parties.

9.13. Binding upon Heirs, Successors and Assigns. The terms, covenants and conditions of this Agreement shall be binding upon all heirs, successors and permitted assigns of the parties hereto; provided, however, that this Agreement shall not be binding upon a purchaser or transferee of any portion of the Developer's property within the CFD unless this Agreement has been assigned and assumed pursuant to Section 9.8, in which event this Agreement shall remain binding upon purchaser or transferee. The Developer's sale or transfer of any portion of its property within the CFD shall not relieve the Developer of its obligations under this Agreement in the absence of such assignment and assumption, with the written consent of the parties to this agreement, as provided in Section 9.8.

9.14. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California, without reference to choice of law provisions. Any legal actions under this Agreement shall be brought only in the Superior Court of the County of Los Angeles, State of California.

9.15. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.

9.16. Interpretation. This Agreement shall be construed according to its fair meaning, and not strictly for or against any party. No presumptions or rules of interpretation based upon the identity of the party preparing or drafting the Agreement, or any part thereof, shall apply to the interpretation of this Agreement.

9.17. Headings. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions contained in this Agreement.

9.18. Authority to Execute. Each party executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind and if such party is a partnership, corporation or trustee, that such partnership, corporation or trustee has full right and authority to enter into this Agreement and perform all of its obligations hereunder.

9.19. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

9.20. Conflict with Other Agreements. Nothing contained herein shall be construed as releasing the Developer from any Development Documents, conditions of approval or requirement imposed by any other agreement with the County, and, in the event of a conflicting provision, the more specific provision, as determined by the County, shall prevail unless such conflicting provision is specifically waived or modified in writing by the County.

[Signature Page Follows]

IN WITNESS WHEREOF, County, Authority, and Developer have executed this Agreement as of the Effective Date.

COUNTY OF LOS ANGELES

By: _____
Chair of the Board of Supervisors

APPROVED AS TO FORM

DAWYN R. HARRISON
Acting County Counsel

By: *Justa Rios*
for Carole Suzuki
Deputy

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIR OF THE BOARD PER G.C.
SEC 25103

By: _____
Clerk of the Board of Supervisors
County of Los Angeles, California

ATTEST:

By: _____
Clerk of the Board of Supervisors
County of Los Angeles, California

“DEVELOPER”

SPRING CANYON RECOVERY
ACQUISITION LLC, a Delaware limited
liability company

By: _____
Name: _____
Its: _____

“AUTHORITY”

CALIFORNIA MUNICIPAL FINANCE
AUTHORITY, a joint powers authority

By: _____
Name: _____
Title: _____
Authorized Signatory

IN WITNESS WHEREOF, County, Authority, and Developer have executed this Agreement as of the Effective Date.

COUNTY OF LOS ANGELES

By: _____
Chair of the Board of Supervisors

APPROVED AS TO FORM

DAWYN R. HARRISON
Acting County Counsel

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIR OF THE BOARD PER G.C.
SEC 25103

By: _____
Deputy


By: _____
Clerk of the Board of Supervisors
County of Los Angeles, California

ATTEST:

By: _____
Clerk of the Board of Supervisors
County of Los Angeles, California

"DEVELOPER"

SPRING CANYON RECOVERY
ACQUISITION LLC, a Delaware limited
liability company

By: 
Name: Matthew Villalobos
Its: Authorized Signatory

"AUTHORITY"

CALIFORNIA MUNICIPAL FINANCE
AUTHORITY, a joint powers authority

By: _____
Name: _____
Title: _____
Authorized Signatory

IN WITNESS WHEREOF, County, Authority, and Developer have executed this Agreement as of the Effective Date.

COUNTY OF LOS ANGELES

By: _____
Chair of the Board of Supervisors

APPROVED AS TO FORM

DAWYN R. HARRISON
Acting County Counsel

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THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIR OF THE BOARD PER G.C.
SEC 25103

By: _____
Deputy

By: _____
Clerk of the Board of Supervisors
County of Los Angeles, California

ATTEST:

By: _____
Clerk of the Board of Supervisors
County of Los Angeles, California

"DEVELOPER"

SPRING CANYON RECOVERY
ACQUISITION LLC, a Delaware limited
liability company

By: _____
Name: _____
Its: _____

"AUTHORITY"

CALIFORNIA MUNICIPAL FINANCE
AUTHORITY, a joint powers authority


By: 
Name: EDWARD J. BECKER
Title: EXECUTIVE DIRECTOR
Authorized Signatory

EXHIBIT A
MAP OF THE CFD BOUNDARY

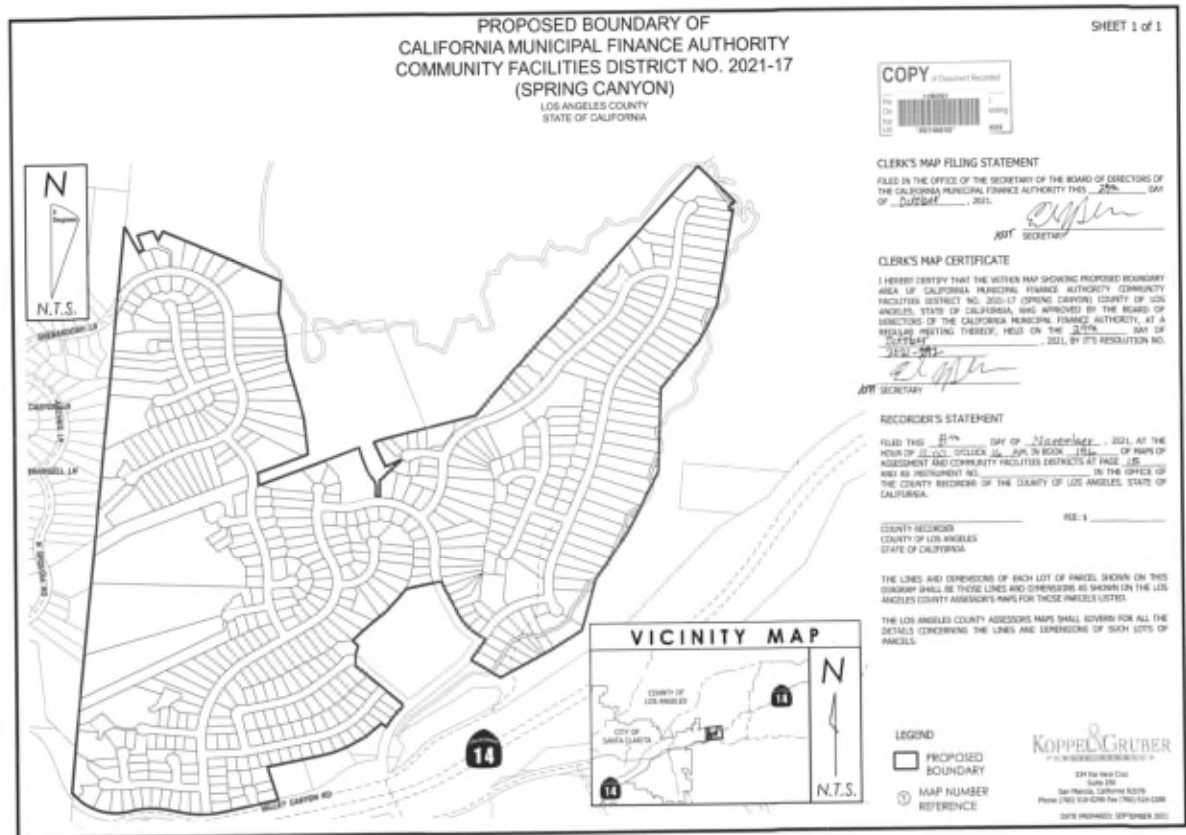


EXHIBIT B

DESCRIPTION OF ACQUISITION IMPROVEMENTS AND ESTIMATED COSTS/ACQUISITION PRICES FOR ACQUISITION IMPROVEMENTS

Unless specifically excluded in the Agreement, the list of eligible facilities and costs consist of the following:

| LA COUNTY CFD ESTIMATED COSTS | | | |
|--|-------------------------|-------------|---|
| FACILITY | ESTIMATED COST | BID/AWARDED | SUBCONTRACTOR |
| Earthwork - entire site | | | |
| Multi-use Trail (Detail A,B,C, & Switchback) | \$ 1,756,356.33 | AWARDED | Independent Construction Co. ¹ |
| Yellowstone Sewer Lift Station | | | |
| Yellowstone Sewer Lift Station | \$ 3,670,200.00 | AWARDED | W.M. Lyles ¹ |
| Backbone / Offsite Improvement | | | |
| Backbone Storm Drain | \$ 3,787,114.72 | AWARDED | Toro Enterprises Inc. ¹ |
| Backbone Flatwork (curbs, sidewalks, driveways) | \$ 239,499.89 | | |
| Signal at Stoncrest/Soledad Intersection | \$ 495,900.00 | | |
| Backbone Street Lights | \$ 582,037.75 | | |
| Backbone Sewer | \$ 533,530.00 | AWARDED | Toro Enterprises Inc. ¹ |
| Lindera Ave (Yellowstone to Lots 49/247) | | | |
| Storm Drain | \$ 1,637,935.20 | AWARDED | Toro Enterprises Inc. ¹ |
| Flatwork | \$ 53,091.36 | | |
| Street Lights | \$ 216,450.00 | | |
| Sewer | \$ 309,934.00 | AWARDED | Toro Enterprises Inc. ¹ |
| Village 3 Improvement (partial) - (Stoncrest Rd (Lots 410/404 to 452/400), Madone Dr (Lots 398/399 to 479/381), Aralia Way, Daphne Ct, Lydia Terrace) | | | |
| Storm Drain | \$ 792,680.82 | AWARDED | Toro Enterprises Inc. ¹ |
| Street Lights | \$ 482,137.75 | | |
| Sewer | \$ 840,154.00 | AWARDED | Toro Enterprises Inc. ¹ |
| Village 4 Improvement (partial) - (Madrone Rd (Lots 480/380 to Lot 360)) | | | |
| Storm Drain | \$ - | | |
| Street Lights | \$ 192,400.00 | | |
| Sewer | \$ 314,432.00 | AWARDED | Toro Enterprises Inc. ¹ |
| Active Park | | | |
| Active Park | \$ 2,700,000.00 | | |
| Village 1 (Hollyleaf Court, Pearlbrush Court, Canyon Oak Way, Buckwheat Drive) | | | |
| Storm Drain | \$ 717,521.99 | | |
| Flatwork (curbs, sidewalks, driveways) | \$ 169,803.00 | | |
| Street Lights | \$ 299,700.00 | | |
| Sewer | \$ 285,974.00 | | |
| Village 2 (Sargent Lane, Lantana Road, Myrtus Way, Privet Way) | | | |
| Storm Drain | \$ 243,872.75 | | |
| Flatwork (curbs, sidewalks, driveways) | \$ 206,166.60 | | |
| Street Lights | \$ 366,300.00 | | |
| Sewer | \$ 484,643.00 | | |
| Village 3 Improvement (remaining) - (Stoncrest Rd (Lots 410/404 to 452/400), Madone Dr (Lots 398/399 to 479/381), Aralia Way, Daphne Ct, Lydia Terrace) | | | |
| Flatwork (curbs, sidewalks, driveways) | \$ 158,422.49 | | |
| Village 4 Improvement (remaining) | | | |
| Flatwork (Madrone Rd (Lots 480/380 to Lot 360)) | \$ 77,268.60 | | |
| Storm Drain (Anise Ave Lot 359 to Lots 504/480) | \$ 285,177.20 | | |
| Flatwork-curbs,sidewalks,driveways (Anise Ave Lot 359 to Lots 504/480) | \$ 117,856.80 | | |
| Street Lights (Anise Ave Lot 359 to Lots 504/480) | \$ 233,100.00 | | |
| Sewer (Anise Ave Lot 359 to Lots 504/480) | \$ 186,808.00 | | |
| Village 6 (Lindera Ave from Lots 50/246 to Lot 200, Empress Way, Calluna Drive, Caffra Place, Anise Ave from Lots 331/422 to Lots 344/458) | | | |
| Storm Drain | \$ 3,127,058.63 | | |
| Flatwork (curbs, sidewalks, driveways) | \$ 325,363.41 | | |
| Street Lights | \$ 849,150.00 | | |
| Sewer | \$ 942,612.00 | | |
| Village 7 (Pistache Way, Spire Court, Cassia Way, Burkwood Court, Shenandoah Lane, Aster Place, Pale Leaf Court) | | | |
| Storm Drain | \$ 2,581,640.87 | | |
| Flatwork (curbs, sidewalks, driveways) | \$ 500,259.60 | | |
| Street Lights | \$ 832,500.00 | | |
| Sewer | \$ 1,261,330.00 | | |
| GRAND TOTAL | \$ 32,856,382.76 | | |

¹ These are Prior Bid Acquisition Improvements for which bids were obtained prior to January 1, 2022.

EXHIBIT C

ACTUAL COST CERTIFICATE

Pursuant to the Acquisition Funding and Joint Community Facilities Agreement, dated as of _____, 2022 (the "Acquisition Agreement"), by and among Spring Canyon Recovery Acquisition LLC, a Delaware limited liability company (the "Developer"), the California Municipal Finance Authority ("Authority"), and the County of Los Angeles ("County"), the Developer hereby requests payment of the Acquisition Price of the Acquisition Improvements, described in Attachment 1 hereto. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Acquisition Agreement.

In connection with this Actual Cost Certificate the undersigned hereby represents and warrants to the Authority as follows:

1. The undersigned is an authorized representative of the Developer, qualified to execute this certificate on behalf of the Developer and knowledgeable as to the matters set forth herein.

2. The Developer has submitted or submits herewith to the County Authorized Officer as-built Plans at the completion of construction of each of the Acquisition Improvements described in Attachment 1, and such drawings, as applicable, are true, correct and complete representations of the Acquisition Improvements listed in Attachment 1.

3. Each of the Acquisition Improvements described in Attachment 1 has been constructed in accordance with the approved plans (the "Plans"), and in accordance with all applicable legal requirements, including County ordinances and standards and the requirements of the Acquisition Agreement, and the Plans.

4. None of the Acquisition Improvements described in Attachment 1 has been the subject of any prior payment request.

5. The true and correct Actual Cost of the Acquisition Improvements is set forth in Attachment 1 hereto.

6. The Developer has submitted or submits herewith to the County Authorized Officer a copy of each construction contract for each of the Acquisition Improvements described in Attachment 1, a copy of the bid notice for each such contract, a copy of each change order applicable to each such contract, and construction quantities certified by the engineer of record. All change orders have been approved by the County Authorized Officer.

7. The Developer has submitted or submits herewith to the County Authorized Officer invoices, receipts, worksheets and other evidence of costs for each of the Acquisition Improvements described in Attachment 1, which are in sufficient detail to allow the County Authorized Officer to verify the Actual Cost of such Acquisition Improvement.

8. The Developer has submitted or submits herewith to the County Authorized Officer evidence that each of the invoices, receipts, worksheets and other evidence of costs referred to in the preceding paragraph, has been paid in full, which evidence is in the form of

copies of cancelled checks or such other form as the County Authorized Officer has approved in writing.

9. There has not been filed with or served upon the Developer notice of any lien, right to lien or attachment upon, or claim affecting the right to receive, the payment of the Acquisition Price for each of the Acquisition Improvement(s) described in Attachment 1 which has not been released or will not be released simultaneously with the payment of such obligation per paragraph 10 herein.

10. The Developer has submitted or submits herewith to the County Authorized Officer copies of unconditional or conditional (providing for release upon payment) lien releases from the general contractors for all work with respect to each Acquisition Improvement described in Attachment 1. In the case of a payment request for a completed Acquisition Improvement, the Developer submits herewith to the County Authorized Officer copies of unconditional or conditional (providing for release upon payment) lien releases from all contractors, subcontractors and materialmen in addition to a recorded Notice of Completion for said Acquisition Improvement,

11. The representations and warranties of the Developer set forth in the Acquisition Agreement are true and correct on and as of the date hereof with the same force and effect as if made on and as of the date hereof.

12. The Developer represents that it has satisfied the conditions specified in the Acquisition Agreement for the payment of the Acquisition Price.

I hereby declare under penalty of perjury that the above representations and warranties are true and correct.

a _____

By: _____

Name: _____

Title: _____

ATTACHMENT 1

| Acquisition Improvement | Actual Cost |
|--|-------------|
| <i>[Insert detailed description of Acquisition Improvement to be acquired]</i> | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| Total | |

EXHIBIT D

DISBURSEMENT REQUEST FORM

To: _____
Attention: _____
Fax: _____
Phone: _____
E-mail: _____

Re: CMFA CFD No. _____ (_____)

The undersigned, a County Authorized Officer, hereby requests a disbursement from the CFD Acquisition and Project Fund as follows:

Request Date: [Insert Date of Request]

Name of Developer: _____

Disbursement Amount: [Insert Acquisition Price]

Acquisition Improvements
: [Insert Description of Acquisition
Improvement(s)]

Payment Instructions: [Insert Wire Instructions or Payment Address
for Developer or Developer's designee as
provided by the Developer]

The undersigned hereby certifies as follows:

The disbursement is being requested in accordance with the Acquisition Funding and Joint Community Facilities Agreement dated _____, 2022 among Spring Canyon Recovery Acquisition LLC, the California Municipal Finance Authority and County of Los Angeles (the "Acquisition Agreement"). Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Acquisition Agreement.

None of the items for which payment is requested have been reimbursed previously from this or any other Acquisition and Project Fund.

If the disbursement amount is greater than the funds held in the Acquisition and Project Fund, the Authority Trustee is authorized to pay the available amount of such funds and to pay remaining amount(s) as funds are subsequently deposited in the Acquisition and Project Fund, should that occur.

The amounts being disbursed pursuant to this request are being used to finance or refinance certain public infrastructure and facilities (the "Acquisition Improvements") pursuant to the Acquisition Agreement. The County of Los Angeles or Los Angeles County Flood Control District will own, and for the entire useful life of such Acquisition Improvements reasonably

expects to own, all such Acquisition Improvements. To the extent any of such Acquisition Improvements are sold to an entity that is not a state or local government agency, the County will seek the advice and approval of bond counsel to the Authority prior to any such sale. The County will not allow any of such Acquisition Improvements to be used (for example, by lease or other contract) in the trade or business of any nongovernmental persons (other than in their roles as members of the general public) except as permitted pursuant to Government Code Section 53313.5(e). All such Acquisition Improvements will be used in the performance of essential governmental functions of the County or another state or local government agency. The average expected useful life of such Acquisition Improvements is at least 20 years. The representations and covenants contained in this paragraph are intended to support the conclusion that the interest paid on the bonds issued to finance the Acquisition Improvements is excluded from gross income for federal income tax purpose under Section 1.03 of the Internal Revenue Code of 1986 (the "Code").

COUNTY OF LOS ANGELES

By: _____

Title: _____

EXHIBIT E

LETTER OF CONCURRENCE FORM

_____ [INSERT DATE]

County of Los Angeles

Attention: _____

Subject: Concurrence Letter for _____ [Insert description of the construction work]

Dear _____:

On behalf of Spring Canyon Recovery Acquisition LLC, a Delaware limited liability company ("**Company**"), we are submitting the following information related to the construction of _____ [Insert description of the construction work]:

- Bid Spread showing the results of each responsive bid. See attached schedule that follows this Concurrence Letter
- _____ [Insert description of field soft cost proposals applicable for the construction work]

Company recommends award of the following work:

CFD PORTION

| DESCRIPTION OF WORK | VENDOR NAME | CONTRACT NO. | AMOUNT |
|---------------------|-------------|--------------|--------|
| | | | |
| | | | |
| | | | |
| | | | |
| Award Total: | | | |

Please indicate your concurrence and eligibility of the improvements to be reimbursed by signing below and returning to me. If you have any questions or require additional information, please do not hesitate to contact me at _____.

Sincerely,

COUNTY OF LOS ANGELES CONCURRENCE

_____ TITLE

_____ DATE

EXHIBIT F
POTENTIAL CHANGE OF WORK FORM

Potential Change of Work ("PCOW")

The purpose of this form is to acknowledge a change in work for the intent of reimbursement of CFD costs.

Date: _____

PCOW No. _____

Description of Contract: _____

Vendor Name: _____

**Contract Number/Change
Order Number:** _____

Owner: _____

Owner's Licensed Affiliate: _____

Provide the following information if PCOW is

for field services during construction:

Contractor: _____

Contract No.: _____

Potential Change of Work description:

Total Amount of PCOW: _____

Company Review: _____
Company Representative Date

County of Los Angeles Approval:

☐

Approved
and is CFD
eligible

☐

Not approved and is
not CFD eligible

County comments:

Reviewed by: _____
County Representative Date